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THE PRESIDENTIAL TENURE

By Felix Morley

By a vote of 285 to 121 the House of Representatives, on February 6, adopted a Resolution for a Constitutional Amendment limiting tenure of the Presidency to two four-year terms. The margin of passage was 14 votes more than the two-thirds majority necessary in both Houses to initiate Amendments to the Constitution.

This action, accomplished as the Eightieth Congress completed its first month, demonstrates the sincerity of the Republican pledge to block all tendencies toward the establishment of executive dictatorship in the United States.

The vote also reflects excellent organization, and a high degree of unity and discipline, in the political party which was placed in control of Congress by the November election. All of the 238 Republican members present on February 6 voted for the proposed Amendment, which also received the support of 47 Democrats. In contrast with Republican unanimity, 22 per cent of the Democratic votes were in repudiation of their party leadership on this issue.

The celerity and decisiveness of this parliamentary step combine to emphasize its importance, both Constitutional and psychological. The latter aspect is at the moment uppermost, since a long time must necessarily elapse before the proposed Amendment can actually become part of the organic law. There must first be a two-thirds favoring vote in the Senate, which may not be so easily achieved, and this must then be followed by ratification in 36 (three fourths of the total) State Legislatures. Since 39 of these are now in the midst of customarily brief biennial sessions, few ratifications could in any case be expected until January, 1949 -- after the next Presidential election.

But the psychological significance of the thumping majority given to the measure by the House is immediate. It is a direct denunciation of what the Nazis called the Fuehrer Prinzip; an open denial of the "indispensable man" theory; a thinly-veiled repudiation of President Roosevelt's identification of himself with that theory in the face of the once well-established tradition against a third term.

When Mr. Roosevelt broke this tradition, by accepting third-term

nomination on July 19, 1940, he announced that he did so "thinking solely of the national good" and because "it was my clear duty, with the aid of Congress, to preserve our neutrality. . . ." He added that: "No call of Party alone would prevail upon me to accept reelection."

II

There is no question that Franklin D. Roosevelt was Constitutionally entitled to seek re-election to the Presidency, again and again and again. In doing so he was merely following the advocacy of Alexander Hamilton, who wanted the Constitution to provide that the President "shall hold his place during good behaviour, removable only by conviction upon impeachment for some crime or misdemeanor."

No subject before the Constitutional Convention caused more debate than the related problems of Presidential tenure and re-eligibility. The issue came to the fore immediately after the Convention set to work in Philadelphia, May 25, 1787. It was not settled until September 6, less than a fortnight before final adjournment.

The first working draft of the Constitution, prepared by Charles Pinckney of South Carolina, left the term of the Presidential office blank, but said that he "shall be reeligible." Immediately the delegates divided into two schools of thought, one advocating a three-year Presidential term with right of re-election; the other supporting a seven-year term without re-eligibility.

But outside of these blocs, and further complicating the issue, were the diametrically opposed viewpoints of Hamilton and Jefferson. The former insistently demanded that the President should hold office for life. The views of Jefferson, then Minister to France, were ably represented by Edmund Randolph, in behalf of an Executive Council where the President would be little more than a presiding officer, as in Switzerland today. On June 1, Madison noted in his journal that: "Mr. Randolph strenuously opposed an unity in the executive magistracy. He regarded it as the foetus of monarchy."

On that day, over strong opposition, a seven-year Presidential term, without right of re-election, was written into the draft. But this did not settle the issue, complicated by conflicting opinions as to the best method of Presidential election. On July 26, George Mason observed almost despairingly that: "In every stage of the question relative to the Executive, the difficulty of the subject and the diversity of the opinions concerning it have appeared."

Nobody showed any enthusiasm when the Convention, on September 4, at last reached agreement on the present four-year term, with re-

eligibility implied but not specified. Indeed, during the next two days there were fruitless efforts to restore the provision that the President "shall hold his office during the term of seven years; but shall not be elected a second time."

III

Washington's refusal to be a candidate for a third term, as made public in the famous Farewell Address of September 19, 1796, was of course partly due to his familiarity with the long arguments in the Constitutional Convention, of which he was presiding officer. Except for two weaknesses the single seven-year term would probably have been adopted. The theory of balanced powers called for a Presidential term of length midway between the two years for a Representative and the six years for a Senator. And it was cogently reasoned that, in the event of a bad choice, seven years might prove disastrously long.

Therefore it was in accord with the median thought of the Convention to hold the maximum period of Presidential office as near as possible to the seven-year term which had so narrowly missed adoption. This meant a maximum of two four-year terms, or one elected term in the case of a Vice-President who had served any substantial part of the term of a deceased President. Regarded as morally binding for more than a century, the tradition was threatened for the first time by Theodore Roosevelt's unsuccessful third-party candidacy in 1912.

The present move to give the tradition legal force, following its overthrow by the second Roosevelt, is certainly in harmony with the recorded thought of most of the founders of the Republic. The outstanding exception is in the case of Alexander Hamilton, who said frankly in the Convention that he preferred an hereditary to an elected Executive and who "acknowledged himself not to think favorably of republican government."

Hamilton's influence, particularly because of his leading role in the writing of The Federalist, has been very great. To it can be attributed a great deal of the doubt as to the desirability of the third-term tradition. Opponents of the proposed Constitutional Amendment can today find effective ammunition in No. 72 of The Federalist, where Hamilton asserts:

"There is no Nation which has not, at one period or another, experienced an absolute necessity of the services of particular men in particular situations; perhaps it would not be too strong to say, to the preservation of its political existence. How unwise, therefore, must be every such self-denying ordinance as serves to prohibit a Nation from making use of its own citizens in the manner best suited to its exigencies and circumstances!"

IV

It is apparent that in the proposed Twenty-Second Amendment the public confronts one of the fundamental issues left unsettled by the founders of the Republic, and therefore demanding the more careful consideration today. The issue, moreover, is one which goes to the very heart of political theory. For the question is whether or not the Fuehrer Prinzip is compatible with the republican form of government.

Hamilton's answer was affirmative. But Hamilton, one must remember, had no faith in republicanism and would have centralized to the extent of having all State Governors appointed by the life-term President whom he desired. To enlist the support of Hamilton is to attack, rather than to defend, the republican form of government.

Jefferson, on the other hand, was strongly opposed to the idea of a third term. For him, as for Washington, voluntary retirement was a matter of firm principle. In Jefferson's words:

"If the principle of rotation be a sound one, as I conscientiously believe it to be with respect to this office, no pretext should ever be permitted to dispense with it, because there never will be a time when real difficulties will not exist, and furnish a plausible pretext for dispensation."

In 1940, President Roosevelt justified his third-term candidacy by his "clear duty . . . to preserve our neutrality." In 1944, he justified his fourth-term candidacy as necessary to defeat "those who [had] opposed Lend-Lease" as unneutral.

His dexterity in finding what Jefferson called "plausible pretext" will probably never again be equalled, even without the proposed Constitutional Amendment. But the safeguard is not superfluous for that reason. The majesty of the American Presidency increases steadily. The allure of the office, once achieved, makes parallel advance. And simultaneously it becomes easier for the incumbent to forget that he is only a tenant in the White House, and easier to insure his own re-election.

The move to make illegal that third term which was, until 1940, deemed improper, is therefore of great practical importance. It is welcome as a sign of the return to fundamental political thinking. And there is nothing accidental in the division revealed. Jeffersonian Democrats unite with Republicans. The remnant of New Dealers support the absolutist position of which Alexander Hamilton and Franklin Roosevelt were, in their separate ways, such brilliant and persuasive advocates.

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By Frank C. Hanighen

February 12, 1947

The arrest, exposure and imprisonment of Gerhard Eisler, named by the House Committee as the No. 1 Communist agent in this country, was doubtless instructive to those -- and they are many -- who are still in the "Can Such Things Be?" stage. Critics who shout "witch-burning" and "red-baiting" should pause to consider. The latter, of course, are right in saying that such exposés are no substitute for reforms of the evils of our modern society. But they might realize the danger of allowing agents of world totalitarianism to continue their attempts to undermine our form of government. Yet that is not all there is to the case. One finds an instructive corollary in the almost incredible tale of just how Eisler was exposed.

On the surface, the appearance of Eisler before the Special Committee on Un-American Activities looked like another triumph for J. Edgar Hoover. Actually, the case was worked up and brought to the public eye without the aid of the FBI, and indeed without the knowledge of the Department of Justice. Congressman J. Parnell Thomas (N.J.) and the Committee counsel, Robert Stripling, aided by certain elements in various agencies of the Government, performed the necessary sleuthing and staged the illuminating scene in the House committee room. No one else was forewarned -- neither the FBI, nor the Department of Justice, nor White House, nor State Department. Preparations were closely guarded and kept secret until the hearing was called to order. In this lies the hidden significance of the Eisler case.

Thomas and his collaborators in various Government agencies were afraid that other and contrary elements in the Government would discover their plans and at the last minute throw a "monkey wrench" into the machinery of investigation. Hence they took these extraordinary precautions. There have been too many similar cases delayed, filed away, nol-prossed, etc., by individuals and groups in the Government. In short, there emerges the strange picture of "pro-American" elements in the Government struggling to protect the country against opposition by other Governmental elements holding a different philosophy. The obvious conclusion is that the Truman Administration has not yet even begun to clean house.

A word about J. Edgar Hoover and the FBI. There can be no reflection on their good faith and patriotic intentions. But their ability and intelligence in international cases fall far short of their zeal; and this has become such a commonplace among informed Government circles that it was natural that Congressman Thomas should fear their honest, but inexperienced, assistance as much as the opposition of subversives in the Government.

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The renewal of the racialist and anti-German campaign, the beginning of which this column noted on January 29, was formally launched during the past week with the announcement of the birth of an organization called The National Conference on the German Problem. The list of sponsors includes a number of names of persons long sympathetic to the policy of Henry Morgenthau. One, that of Isidore Lipschutz, described as an emigré Antwerp diamond merchant, has appeared on a number of committees dedicated to the maintenance of punitive peace terms for Germany. The new organization says "that the American Government has turned its back on the plans originally formulated for the handling of Germany and that a continuation of the present economic, social and political policies there will provide foundations for restoration of militaristic Germany." Significantly, one of the members, Mr. William L. Shirer, in his column (February 2) mentions the new committee in con-

nection with Mr. Rex Stout's "Society for the Prevention of World War III," and the Vansittart group in Europe. Of additional significance is the fact that the first meeting of the Conference on the German Problem will be held on March 6, on the eve of the Moscow Conference.

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Faits Divers ---- The closing of the Philadelphia Record as a result of a prolonged Guild strike has inspired many comments on the disastrous results of intransigent union policies. But few have noted that the disappearance of this once powerful Democratic organ may have no small political effect. The Record was staunchly New Deal and Democratic, and was largely responsible for returning a solid Democratic delegation from Philadelphia to the Federal House of Representatives during the New Deal period, until the elections of last November broke the Democratic hold on the Quaker City. The passing of the Record leaves the morning field in the hands of the Philadelphia Inquirer, which is a strong Republican organization paper, and to the Sunday morning edition of the Evening Bulletin, which will presumably be as colorless as the Bulletin always is. Thus, the GOP gains a firmer hold on Pennsylvania, truly a Keystone State, politically.

Washington is highly amused by an item in the column of Drew Pearson, published in the Washington Post, February 7, which quotes President Truman as saying of Secretary of State Marshall that "he has an absolutely phenomenal memory. He can remember a meeting that he had with the President two years after it happened. He can even tell you the day and hour, exactly what was talked about, without any notes. I certainly am expecting big things from him." Washington, too, has the memory of an elephant. It recalls that General Marshall, testifying before the Pearl Harbor Investigating Committee, found it difficult to remember what he was doing on the critical night before Pearl Harbor.

Despite much criticism of the Russian Government for its action in limiting to 20 the number of American correspondents assigned to the Moscow Conference of Foreign Ministers, it is believed in press circles that this number should prove sufficient for adequate coverage. If the participating diplomatic delegations play fair with the press, there should be no scantiness of news about what goes on at the Conference -- that is, if anything important does go on.

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The issue of the proposed 20 per cent across-the-board tax reduction has become obscured by political fireworks. New Deal Democrats attacked this project as designed unduly to lighten the burden of the rich and inadequately to lower that of the poor. Republican Congressman Engel (Mich.) joined the New Deal refrain and advocated doubling the \$500 exemption, a move which would remove from the tax rolls about 20 million low-bracket taxpayers. Another Republican, Mason (Ill.), defending the across-the-board plan and attacking that of Engel, believes that these low-income taxpayers should not be exempted, saying that the American public should be kept "tax conscious, if we ever expect to get public approval for the reduction of Federal spending."

The Congressmen's arguments, pro and con, are beside the point, in the opinion of some economists. The principal objective should be the restoration of a sound peacetime economy. One essential is the creation of "risk capital." If a high income taxpayer's burden is decreased, he has funds for investment in those private enterprises which involve some hazards. Taxpayers in this category have traditionally supplied the money for such underwriting. The funds of low-income taxpayers are rarely placed in "risk" investments, and indeed should not be; they cannot afford to take chances with their small savings. The action of venture capital results in expansion of business, the creation of jobs and opportunities and the

stimulation of business competition with resultant lower prices. Finally, this process provides additional sources of revenue with the result that all taxes, for rich and poor, can be lowered.

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The coal crisis which has brought about industrial paralysis in Britain is indeed a portent for the future of such a great industrial nation. Coal helped Britain to get a head start over other countries during the Industrial Revolution in the Eighteenth Century, and was the raw material backbone of Britain's long commercial and industrial supremacy. Inability to produce, particularly at a time when every ounce of production is necessary to permit essential imports is surely ominous and will be more so when proceeds from the United States loan run short.

The magnitude of the economic crisis suggests that an important political crisis will follow. Whether or not the Tories could have done any better had they held the reins of administration, the Labor Government can hardly escape criticism. The developing split in the Labor Party may well widen, with imponderable political results. Even if the present coal shortage should ease, the lack of dollar exchange to pay for vital imports is likely to cause another economic crisis before summer, with inevitable political repercussions.

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L'Affaire Lilienthal might well be sub-titled "Hugger Mugger in Washington," if it were not so serious. Left Wingers cited Senator McKellar's opposition to Lilienthal as a reason for confirming the appointment of the former TVA head to chairmanship of the Atomic Energy Commission. McKellar is classified as a "Southern Bourbon." Conservatives, on the other hand, grew suspicious of Lilienthal because of his militant Left Wing support. Other conservatives did not like the appointment, logical though it is, but refrained from criticism for fear of being accused of "anti-Semitism." Mr. Baruch endorsed Lilienthal, but was reported to have privately opposed his appointment -- in the confusing Baruch way.

Whatever the truth or validity of the charges that TVA under Lilienthal's management was a harborage for fellow travellers, one fact could hardly be overlooked. President Truman announced the appointment just a week before the November elections -- a brazen bid for Left Wing votes. The chairmanship of the Atomic Energy Commission is of far too much importance to be mixed up with partisan politics. Hence the reasonable minds in Washington, worried by this aspect, are inclined to heed the suggestion of Frank C. Waldrop, writing in the Times-Herald, "Why not put the whole Commission matter aside for six months or a year and look it over again in a cooler moment?"

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Britain and the United States have provided the Moscow propaganda mills with a real basis for charges of "predatory capitalism," to judge by the shipping aspect of our German policy. The confiscation of the German merchant marine, the blowing up of unbombed docks and shipbuilding companies in Hamburg and Bremen, the complete destruction of the harbor of Kiel -- all this is part of a Carthaginian peace, for which London and Washington, rather than Moscow, bear responsibility. While ruthless destruction of competitive shipping facilities has been largely implemented by the British, Washington also must share the blame.

It is ridiculous to say that the building, much less the possession of, a German merchant fleet can ever conceivably endanger any other nation in this atomic age; especially as the German civil vessels were only used during the past war in the Norway expedition and in a little blockade running. The Anglo-American shipping actions are only explainable in terms of a desire to eliminate the most important competitor of the two great maritime powers. What price the Atlantic Charter?

Notes and Quotes

The story of a one-man Underground against Hitler is told in the December 4 installment of H. R. Trevor-Roper's The Last Days of Hitler, running serially in the London Daily Telegraph. The man was Albert Speer, Minister of Production, "a technocrat, and not a politician. . . . To the technocrat politics are irrelevant. To him the prosperity, the future of a people depends not upon personalities nor institutions, but upon the technical instruments whereby society is maintained" -- in short, in factories, railroads, etc. For years, Speer left politics severely alone and stuck to his last, with great success for the economy of Germany.

But, "when Hitler and Goebbels raised the slogan of 'Scorched Earth' and called upon the German people to destroy their towns and factories, to blow up their dams and bridges, to sacrifice their railways and rolling-stock for the sake of a myth and a Wagnerian Twilight," it was too much for Speer. He staged an effective revolt. "To every order of industrial suicide which emanated from the Fuehrer's headquarters . . . Speer issued, through his own channels, a countermanding order. By his great authority and his continual journeys throughout Germany he everywhere stayed the hand of the destroyer."

Finally, in February 1945, Speer hatched a scheme for the assassination of Hitler and his whole political directorate in the famous underground bunker in Berlin where they met. "Speer's plan did not entail the introduction of visible weapons. The bunker was ventilated by means of an air-conditioned plant, of which the external funnel projected into the Chancellery garden." The master technocrat planned to introduce poison gas into the ventilator and thereby to kill the whole council. But at the last moment Speer found that Hitler, as if sensing the danger, had erected a protective chimney around the ventilator. Speer abandoned this plan but continued his anti-scorched earth policy, to the end of the war. He was convicted at Nuremberg as a war criminal and sent to prison. It seems unfortunate, if not unjust, that this one-track technical mind could not have been spared to assist in the reconstruction of Germany.

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The anti-Zionist American Council of Judaism in its January news letter stresses the Arab factor in the Palestine situation: "The official Zionist miscalculation on the Arab question is now a boomerang against the Jews in Palestine and conceivably the Jews the world over. We learn from the Zionist Congress itself that 'the Arab boycott is threatening our economic state but our leaders belittle its effect.' We know that there is an Arab Army in formation. The whole pent-up force is coming to the explosion point. The falsity of the Zionist claim that Arabs and Jews live peacefully together is becoming more and more manifest. A hard core has emerged of 'an irrepressible conflict.' Long ago we pointed out that machine guns were not the answer. Bombs and explosives and guns are not the monopoly of Jewish terrorists alone. Their opponents can secure them as well. This prophecy alas has become a reality. The clouds of violent Arab-Zionist conflict are massing."

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An interesting new publication is the Union for Democratic Action London Letter, which provides much information missed by the daily press, as well as many keen and original observations. Its January 2 number contains the following: "The idea of an Anglo-American alliance is as unpopular in England as it was in America. America-baiting continues to be good politics. In a remote Welsh constituency several men who wanted the candidacy for Parliament were asked to give ten-minute talks to the selection committee. The one who was smart enough to devote three minutes to denouncing America got the nod." The same number contains an illuminating analysis of the Left Wing Parliamentary revolt under R. H. S. Crossman.